

THE HONORABLE JAMES L. ROBART

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,)	
)	Case No. 2:12-cv-01282-JLR
Plaintiff,)	
)	CITY OF SEATTLE’S UNOPPOSED
v.)	MOTION TO APPROVE CROWD
)	MANAGEMENT POLICY AND
CITY OF SEATTLE,)	TERMINATE PRELIMINARY
)	INJUNCTION
Defendant.)	
)	NOTE ON MOTION CALENDAR:
)	July 8, 2025
)	
)	

The City submits proposed revisions to the Seattle Police Department (SPD)’s Crowd Management Policy and asks the Court to approve them. The proposed Crowd Management Policy is submitted here as Exhibit A to the Declaration of Brian Maxey, SPD Chief Operating Officer. The latest version of the Crowd Management Policy was approved by the Court on February 26, 2021. Dkts. 662 & 658-3 at 2-16.

**CITY OF SEATTLE’S UNOPPOSED MOTION TO APPROVE
CROWD MANAGEMENT POLICY AND TERMINATE
PRELIMINARY INJUNCTION - 1**
(12-CV-01282-JLR)

Ann Davison
Seattle City Attorney
701 5th Avenue, Suite 2050
Seattle, WA 98104-7095
(206) 684-8200

1 The City also requests, on grounds of mootness, that the Court terminate the preliminary
 2 injunction issued on October 1, 2020, regarding the City's previous Crowd Control Weapons
 3 Ordinance. Dkt. 647.

4 BACKGROUND

5 I. In 2021, SPD implemented an initial round of changes to its crowd management 6 policy and tactics.

7 As the protests of 2020 unfolded, the City recognized it had been unprepared to address
 8 protests of that nature and magnitude, especially when faced with evolving community
 9 expectations. Overall, the City's response significantly undermined public trust.

10 The independent police accountability entities worked to investigate the protest
 11 incidents and make systemic recommendations, which were submitted to the Court. *See* Dkts.
 12 636-1, 637-1, 639-1. Based on those recommendations and its internal review, SPD made
 13 fundamental changes to its Crowd Management policies and practices in 2020 and 2021. Dkt.
 14 622 (Court's Order approving 2021 policy changes); Dkt. 658-3 at 2-16 ("redline" reflecting
 15 2021 policy changes).

16 In its 2021 revisions, SPD provided a more robust statement of purpose at the beginning
 17 of the Crowd Management policy, clarifying its intent to embrace Seattle's approach to
 18 facilitating public assembly even beyond the minimum guarantees of the First Amendment. It
 19 includes a statement that the "Seattle Police Department takes seriously its responsibility and
 20 commitment to support and facilitate the exercise of rights to free speech and peaceable assembly
 21 rights in fair and equitable manner." Crowd Management Policy, p.1, effective 4/15/2021,
 22 attached hereto as Exhibit 1 to Declaration of Lieutenant Didier, Commander of Community

1 Response Group (“Didier Dec.”).

2 Drawing on advice from the Office of Inspector General for Public Safety (OIG), SPD
3 added a new tool called a “crowd management, intervention, and control concepts strategies
4 matrix.” Ex. 1 at 5-6. The matrix maps out considerations for decision-making regarding how
5 and when SPD should intervene in a crowd setting. It contains practical guidance to help officers
6 and supervisors objectively determine at what point it is necessary to intervene to protect life-
7 safety and property rights. The matrix defines tiers based on objective, observable crowd
8 activities and dynamics. It then sets out intervention strategies corresponding to each tier,
9 providing an easy-to-understand way to align SPD’s response to the specific, concrete actions of
10 the people who are assembled.

11 As described in the matrix, one important strategy is to quickly isolate people acting
12 unlawfully within an otherwise non-violent crowd, by arresting and removing them. In addition,
13 SPD began securing help from protest organizers in persuading people to comply with SPD’s
14 orders. The matrix incorporates these adaptations into policy. *See* Ex. 1 at 5-6. When safe and
15 feasible, such crowd intervention strategies are effective, because they contain unlawful behavior.
16 Didier. Dec. ¶ 5, 19. Importantly, the matrix clarifies that “isolated unlawful activity by
17 individuals or small groups within a crowd should not automatically form the basis for declaring
18 an assembly unlawful.” Ex. 1 at 5.

19 SPD also changed policy to clarify that a dispersal order cannot be issued “unless the
20 Incident Commander has determined that the risk observed cannot be contained through crowd
21 management or intervention tactics.” *Id.* at 7. SPD changed how dispersal orders were given as
22 well. It added a sound amplification requirement and began issuing dispersal orders on social

media. *Id.* Policy requires that Incident Commanders allow a reasonable amount of time to comply and advise the crowd about available routes to disperse, before any less lethal tools can be used. Ex. 1 at 9-10.

To accompany the policy changes and re-set the tone going forward, in 2021, SPD conducted a major effort to update crowd management training and required that all sworn personnel complete a mandatory, full-day Crowd Management, Intervention, and Control training. Declaration of Chief Operating Officer Brian Maxey (“Maxey Dec.”), ¶¶ 3-4 (Dkt. 732). Half of the day was in the classroom and covered lessons learned from the 2020 protests and the policy revisions mentioned above. *Id.* ¶ 4. The rest of the day was a practical training course in which officers performed crowd management drills and scenarios utilizing the new tactics and policies. *Id.*

II. SPD has safely and effectively managed hundreds of significant demonstrations over the past four years.

Outcomes at crowd events in the many years since this Court approved SPD’s policy changes help demonstrate their effectiveness.

SPD worked with OIG to establish the Police Outreach Engagement Team (POET) to implement the policy and strategy changes described above. *See* SPD’s 2023 Comprehensive Resp. to Sentinel Event Review at 15 (Dkt. 773-1). POET is a “dialogue unit” modeled on international models, to foster greater communication and understanding between officers and members of the public. *Id.* POET regularly meets with demonstration organizers in advance to plan successful and safe events and engages during the events to reduce any points of friction. *Id.* ¶¶ 15-16. Now the initial staffing for all demonstrations includes a POET team. *Id.*

1 POET is made up of two lieutenants, three sergeants, and eight officers. *Id.* ¶ 15. When a protest
2 arises, there frequently is no need to form a line with the officers on one side and the protesters
3 on the other. *Id.* ¶ 17. Instead, POET officers—who wear khakis and polo shirts (a softer, less
4 intimidating look)—stay close enough to the crowd to engage quickly if needed. *Id.* Other
5 assigned officers remain out of sight unless a more visible profile becomes necessary. *Id.*

6 As noted above, SPD also has become more agile at targeting and arresting people who
7 cause property damage or violence without dispersing the entire protest. For example, to address
8 property damage, SPD often uses plainclothes officers to follow offenders so an arrest can be
9 made once they are sufficiently separated from the crowd, allowing the protesters to continue
10 their First Amendment activities uninterrupted. Didier Dec. ¶ 19. Evidence shows that
11 intervening to ensure accountability in this way reduces escalation of events and increases officer
12 legitimacy within the crowd. *Id.* ¶ 5. Effective communication allows the crowd to understand
13 the basis for the arrest and confers legitimacy. *Id.*

14 In addition, SPD uses a variety of tactics to isolate, arrest, and remove law violators
15 quickly. *Id.* ¶ 19. For example, if someone assaults a protester, then—depending on the
16 circumstances—POET may inform the event organizers that an assault happened and let them
17 know that officers are going to move in closer, thus securing the crowd’s cooperation in advance
18 so that officers can safely make an arrest. *Id.*

19 With their improved policy, strategy, and training, SPD can staff 1,000-plus-person
20 demonstrations with POET as the only visible presence. Didier Dec. ¶ 17. On one occasion, for
21 example, people within a crowd were attempting to disrupt a demonstration by throwing Lime
22 bikes and construction signs into the road. *Id.* ¶ 18. POET, from their nearby vantage point, saw

1 that the protest organizers were doing their best to clean up the bikes and signs. POET walked
 2 over and engaged in dialogue with the organizers. *Id.* The officers did not use sound
 3 amplification—they simply talked face-to-face, which helps maintain a calm atmosphere. *Id.*
 4 POET thanked them and explained that, if the unlawful activity escalated to a dangerous level,
 5 then SPD unfortunately would have to disperse the protest. *Id.* In response, the organizers
 6 themselves talked to the offenders, convinced them to leave, and the demonstration was able to
 7 continue. *Id.*

8 Four years of evidence demonstrate that SPD’s policy and strategy are safe and
 9 effective. SPD has nearly eliminated the use of “blast balls.” Since September 2020, SPD has
 10 not used any blast balls. Declaration of Sergeant Gabriel Shank, SPD Force Review Unit, ¶ 8.
 11 Tear gas has not been used since July 2020. *Id.*

12 **III. SPD asks the Court to approve another round of revisions to continue to**
 13 **improve the Crowd Management policy.**

14 In its Order issued September 7, 2023, the Court instructed SPD to conduct another round
 15 of policy revisions to incorporate the community feedback generated from the OIG’s Sentinel
 16 Event Review (SER) process. 9/7/23 Order at ¶¶ 1, 3. SPD’s proposed revisions are provided in
 17 “redline” format as Exhibit A to the Declaration of Brian Maxey.

18 The most frequent recommendations from community members in the SER process were
 19 for SPD to improve communication and place greater emphasis on facilitating safe protests for
 20 those who simply want to express themselves. *See* Dkt. 773-1 at 15, 20-21. To address this
 21 feedback, SPD has worked hard to tailor its strategies for isolating and arresting law violators
 22 within an otherwise non-violent crowd. Didier Dec. ¶ 5, 9. One of the primary methods is POET.

1 *Id.* ¶ 15-18. As described above, POET officers communicate with event organizers and
 2 stakeholders. *Id.* ¶ 16. The current, proposed revisions further refine the policy matrix to
 3 formalize POET’s role and describe some of its duties, including: “engender facilitation, not
 4 confrontation; minimize visible police presence; monitor and assess crowd behavior; modulate
 5 police response as crowd behavior changes.” Ex. A at 1.

6 Continuously monitoring and modulating SPD’s response as crowd behavior changes is
 7 another key SER recommendation. See Dkt. 773-1 at 17, 20-21. Once it becomes helpful to have
 8 a police presence, then SPD’s proposed policy revisions make it clear that Incident Commanders
 9 must regularly assess changes in the actions of individuals within the crowd and adjust SPD’s
 10 strategies in response. Ex. A at 1-3, 9, 12, 13, 15.

11 SPD also is proposing to add a new role of Tactical Advisor for large crowd or
 12 demonstration settings to address SER leadership recommendations. Ex. A at 6. The Tactical
 13 Advisor role is filled by officers experienced and trained in special event and demonstration
 14 management and is assigned to provide tactical options to ICs during crowd management
 15 situations. *Id.* It ensures sufficient tactical expertise available to all Incident Commanders and to
 16 provide consistency in crowd management.

17 The proposed revisions bolster protections for media and legal observers. They direct
 18 Incident Commanders, when there are safety considerations, to consider providing media, legal
 19 observers, and protest medics safe areas to carry out their important roles. Ex. A at 16-17. The
 20 revisions propose expanding the definition of “media” to include a broader group people who
 21 seek to gather information and publicly disseminate it. *Id.* at 5-6. These revisions respond to the
 22 SER recommendations to improve communication with the public. *See* discussion at Dkt. 773-1

1 at 15. In addition, SPD proposes to add protections for medics who may assist members of the
2 public. Ex. A at 6, 16-17.

3 In addition to the SER process, SPD's proposed revisions also incorporate suggestions
4 from internal SPD sources. Maxey Dec. ¶ 3. SPD's policy review unit consults with SPD
5 subject-matter experts and the SPD units most impacted by the policy under review. *Id.* The
6 City's police accountability entities play an important role in setting SPD's policies as well. *Id.*
7 OIG is invited to SPD's periodic policy committee discussions, in addition to making policy
8 recommendations through reports and audits. *Id.* ¶¶ 3, 5. The Office of Police Accountability,
9 which investigates allegations of individual officer misconduct, regularly sends "management
10 action recommendations" to the Chief of Police when its investigations identify systemic issues
11 that may be effectively addressed through changes to policy or training. *Id.* ¶¶ 3, 5. The City's
12 Accountability Ordinance requires SPD to establish a protocol for regular and timely review of
13 its policies by OIG, OPA, and CPC. Accountability Ordinance, § 3.29.410.C. The Community
14 Police Commission continues to provide policy recommendations with the goal of ensuring that
15 policy reflects community priorities. *Id.* ¶¶ 3, 5. OIG, OPA, and CPC provided substantive input
16 on the proposed Crowd Management policy. *Id.* ¶ 5.

17 Importantly, SPD's proposed revisions also reflect input from the City's elected leaders.
18 Maxey Dec. ¶ 6. In February, the City enacted legislation regarding crowd management. The
19 adopted Ordinance is submitted here as Exhibit B to Brian Maxey's Declaration. It mandates that
20
21
22

SPD's policy prohibit the use of less lethal tools, such as OC spray and pepperballs,¹ for crowd control purposes absent "an imminent risk of physical injury to any person or significant property damage." Ex. B at 4 (Ordinance 127182, § 2.E). The policy changes necessary to incorporate this provision will result in less leeway for Incident Commanders for when it is permissible to disperse an assembly. *Compare* Ex. 1 at 5 (under current version of SPM § 14-090, dispersal is authorized in the event of "violent acts by four or more persons").

The Ordinance enacted in February also imposes strict requirements regarding blast balls and tear gas. Blast balls cannot be used "to move or disperse a crowd" unless there is an "imminent threat of violence against persons or significant property damage" and "the Chief of Police authorizes blast balls" and "the Mayor proclaims a civil emergency." Ex. B at 5. (Ordinance 127182, § 2.H). When used to move or disperse a crowd, blast balls must be thrown in a "bowling motion, in an open space away from people."² *Id.* at 5. Tear gas cannot be used "in crowd management" unless "all other reasonable force options have been exhausted or are not feasible" and "risk to life is imminent" and "the Mayor proclaims a civil emergency." Ex. B at 4-5 (Ordinance 127182, § 2.G). SPD's policy also complies with strict state-law restrictions on the use of tear gas by law enforcement agencies. *See* Rev. Code Wash. 10.116.030.

¹ The Ordinance prohibits the use of any less lethal tool outside this context for crowd control purposes. Ex. B at 4 (Ordinance 127182, § 2.E). Blast balls and tear gas are subject to greater restrictions, addressed below.

² The requirement does not apply when officers use blast balls to address an individual posing an immediate threat to life safety. Ex. B at 5 (Ordinance 127182, § 2.H). In that situation, the blast balls must be used in a manner that is reasonable, necessary, and proportional. *Id.*

IV. The City repealed the Crowd Control Weapons Ordinance that this Court enjoined in 2020; in accordance with the terms of the injunction, the City now asks that it be terminated as moot.

In its Preliminary Injunction Order, issued October 1, 2020, the Court stated that the Preliminary Injunction Order could expire “by Court order” and “either after demonstration that the Policy Review Process [required by the Consent Decree] has taken place or has been rendered moot.” Dkt. 647 at 1-2. Both conditions have been met. The Policy Review Process is moot with respect to the original, enjoined Ordinance, because the City has repealed and replaced it. *See* Exhibit B (Ordinance No. 127182). Subsequently, SPD, DOJ, and the Monitor engaged in the Policy Review Process regarding SPD’s proposed policy revisions to incorporate the replacement Ordinance. Maxey Dec. ¶ 7.

CONCLUSION

For the foregoing reasons, the City asks that this Court approve proposed revisions to SPD's Crowd Management policy and terminate the October 1, 2020 preliminary injunction as moot.

1 DATED this 8th day of July, 2025.

2 For the CITY OF SEATTLE
3 ANN DAVISON
4 Seattle City Attorney

5 s/ Kerala Cowart
6 Kerala Cowart, WSBA #53649
7 Jessica Leiser, WSBA #49349
8 Seattle City Attorney's Office
9 701 Fifth Avenue, Suite 2050
10 Phone: (206) 733-9001
11 Email: Kerala.Cowart@seattle.gov

12 *Attorneys for the City of Seattle*

13
14
15
16
17
18
19
20
21
22
23 **CITY OF SEATTLE'S UNOPPOSED MOTION TO APPROVE
CROWD MANAGEMENT POLICY AND TERMINATE
PRELIMINARY INJUNCTION - 11**
(12-CV-01282-JLR)

Ann Davison
Seattle City Attorney
701 5th Avenue, Suite 2050
Seattle, WA 98104-7095
(206) 684-8200